

add extraneous issues can refrain from doing so in order to complete our work and to avoid what might be an extended delay.

I know both sides are working with that in mind. I appreciate the effort made to bring this matter to a close. This is probably one of the most important remaining pieces of unfinished business. I appreciate very much the leader's report tonight.

I yield the floor.

Mr. FRIST. Mr. President, I also want to reemphasize what the Democratic leader just said. A number of people are coming forward with legislation in the hopes there is some way it can be attached to the omnibus bill because people realize it is an important bill, and it is a bill we have worked on in a bipartisan way to bring to closure, which we will. I encourage our colleagues on both sides of the aisle to understand that we are not going to be including extraneous matter on this bill. That is under mutual agreement with the Democratic leadership and the Republican leadership.

#### CORRECTING THE ENROLLMENT OF H.R. 1417

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 145, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Res. 145) to correct the enrollment of H.R. 1417.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Res. 145) was agreed to, as follows:

#### S. CON. RES. 145

*Resolved by the Senate (the House of Representatives concurring),* That in the enrollment of H.R. 1417, an Act to amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges, and for other purposes (the Copyright Royalty and Distribution Reform Act of 2004), the Clerk of the House of Representatives shall make the following corrections:

(1) In section 801 of title 17, United States Code, as amended by section 3(a) of H.R. 1417—

(A) in subsection (b)(7)(A)—

(i) in clause (i), strike “the other participants” and insert “participants”; and

(ii) in clause (ii), strike “any other participant described in subparagraph (A)” and insert “any participant described in clause (i)”;

(B) in subsection (b)(7)(B), strike “118(b) (2) or (3)” and insert “118(b)(2)”;

(C) in subsection (b)(8), insert a comma after “802(g)”;

(D) in subsection (c), strike “As provided in section 801(f)(1), the” and insert “The”.

(2) In section 802 of title 17, United States Code, as amended by section 3(a) of H.R. 1417—

(A) in subsection (a)(1), in the second sentence—

(i) strike “two Copyright” and insert “2 Copyright”;

(ii) strike “one shall” and insert “1 shall”;

(B) in subsection (c)—

(i) strike “appointed the Chief Copyright” and insert “appointed as the Chief Copyright”;

(ii) strike “appointed Copyright” and insert “appointed as Copyright”;

(C) in subsection (f)—

(i) in paragraph (1)(A)(ii), strike “14 days of receipt by the Register of Copyrights of all” and insert “14 days after the Register of Copyrights receives all”;

(ii) in paragraph (1)(B)(i)—

(I) strike “The Register shall” and insert “The Register of Copyrights shall”;

(II) strike “30 days of receipt by the Register of Copyrights of all” and insert “30 days after the Register of Copyrights receives all”;

(III) in the last sentence, insert “to the Copyright Royalty Judges” after “is timely delivered”;

(iii) in paragraph (1)(D)—

(I) insert after the second sentence the following: “The Register of Copyrights shall issue such written decision not later than 60 days after the date on which the final determination by the Copyright Royalty Judges is issued.”;

(II) in the following sentence, insert a comma after “such written decision”;

(III) strike “section 802(f)(1)(D)” and insert “this subparagraph”;

(IV) strike “notification and undertakes to consult with” and insert “notification to, and undertakes to consult with,”;

(V) strike “fails within reasonable period after receipt of such notification” and insert “fails, within a reasonable period after receiving such notification.”;

(3) In section 803 of title 17, United States Code, as amended by section 3(a) of H.R. 1417—

(A) in subsection (a)(1), strike “Librarian of Congress, copyright arbitration royalty panels,” and insert “the Librarian of Congress,”;

(B) in subsection (b)—

(i) in paragraph (1), amend subparagraph (A)(i) to read as follows:

“(A) CALL FOR PETITIONS TO PARTICIPATE.—

(i) The Copyright Royalty Judges shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter, calling for the filing of petitions to participate in a proceeding under this chapter for the purpose of making the relevant determination under section 111, 112, 114, 115, 116, 118, 119, 1004, or 1007, as the case may be—

“(I) promptly upon a determination made under section 804(a);

“(II) by no later than January 5 of a year specified in paragraph (2) of section 804(b) for the commencement of proceedings;

“(III) by no later than January 5 of a year specified in subparagraph (A) or (B) of paragraph (3) of section 804(b) for the commencement of proceedings, or as otherwise provided in subparagraph (A) or (C) of such paragraph for the commencement of proceedings;

“(IV) as provided under section 804(b)(8); or

“(V) by no later than January 5 of a year specified in any other provision of section 804(b) for the filing of petitions for the com-

mencement of proceedings, if a petition has not been filed by that date.”;

(ii) in clause (ii) of paragraph (1)(A)—

(I) strike “proceeding, under clause (i)” and insert “proceeding under clause (i)”;

(II) strike “section 803(b)(3)” and insert “paragraph (3)”;

(iii) in paragraph (4)(A), strike “a participant in the proceeding asserts a claim in the amount of” and insert “the contested amount of a claim is”;

(iv) in paragraph (6)(C)—

(I) in clause (iv), insert a comma after “orders”;

(II) in clause (v), strike “according to” and insert “in accordance with”; and

(III) in clause (vi)(I), strike “absent the discovery sought” and insert “, absent the discovery sought,”;

(v) in clause (vii), strike “interrogatories and” and insert “interrogatories, and”; and

(vi) in clause (ix)—

(I) in the first sentence, insert a comma after “give testimony” and insert a comma after “inspection of documents or tangible things”; and

(II) in the last sentence, strike “subparagraph” and insert “clause”;

(C) in subsection (c)—

(i) in paragraph (1), strike “(b)(3)(C)(x)” and insert “(b)(6)(C)(x)”;

(ii) in paragraph (2)—

(I) in subparagraph (A)—

(aa) insert “in a proceeding” after “a participant”;

(bb) strike “a proceeding is issued” and insert “the proceeding is issued”;

(II) in subparagraph (B), strike “their initial determination concerning rates and terms to the participants in the proceeding” and insert “to the participants in the proceeding their initial determination concerning rates and terms”;

(III) in subparagraph (C), strike “except as provided under subsection (d)(1)” and insert “except that nonparticipation may give rise to the limitations with respect to judicial review provided for in subsection (d)(1)”;

(iii) in paragraph (6), strike “Following review of the determination by the Register of Copyrights under section 802(f)(1)(D)” and insert “By no later than the end of the 60-day period provided in section 802(f)(1)(D)”;

(D) in the second sentence of subsection (d)(2)(A), strike “transmission service” and insert “licensee”.

(4) In section 5(b)(1)—

(A) in subparagraph (A), strike “and” at the end;

(B) strike subparagraph (B); and

(C) redesignate subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(5) In the amendment made by section 5(b)(1)(A)—

(A) strike “5-year periods” and insert “5-year period”;

(B) strike “such other periods” and insert “such other period”.

(6) Strike paragraph (3) of section 5(b) and insert the following:

(3) In paragraph (5), by striking “determination by a copyright arbitration royalty panel or decision by the Librarian of Congress” and inserting “decision by the Librarian of Congress or determination by the Copyright Royalty Judges”;

(7) In the amendment made by section 5(c)(1)(A)(i)—

(A) strike “5-year periods” and insert “the 5-year period”;

(B) strike “different transitional periods are provided in section 804(b), or such periods” and insert “a different transitional period is provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period”.

(8) In the amendment made by section 5(c)(1)(B)(i), strike “in section 804(b)” and insert “under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004”.

(9) In the amendment made by section 5(c)(2)(A)—

(A) strike “5-year periods” and insert “the 5-year period”; and

(B) strike “different transitional periods are provided in section 804(b), or such periods” and insert “a different transitional period is provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period”.

(10) In the amendment made by section 5(c)(2)(B)(i), strike “in section 804(b)” and insert “under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004”.

(11) Strike paragraph (3) of section 5(c) and insert the following:

(3) in paragraph (3), by striking “determination by a copyright arbitration royalty panel or decision by the Librarian of Congress” and inserting “decision by the Librarian of Congress or determination by the Copyright Royalty Judges”; and

(12) In section 5(c)(4)(B), insert “of subparagraph (A) the following:” after “by adding after the first sentence”.

(13) In the amendment made by section 5(d)(3)(A), strike “during periods” and insert “during the period”.

(14) In section 5(d)(4)—

(A) strike “and” at the end of subparagraph (B);

(B) add “and” after the semicolon at the end of subparagraph (C); and

(C) add after subparagraph (C) the following:

(D) in the last sentence, by striking “Librarian of Congress” and inserting “Copyright Royalty Judges”.

(15) In the amendment made by section 5(d)(5)(A)(i), strike “, Copyright Royalty Judges, or a copyright arbitration royalty panel to the extent those determinations were accepted by the Librarian of Congress” and insert “or Copyright Royalty Judges”.

(16) In the amendment made by section 5(f)(1)(B)—

(A) strike “, a copyright arbitration royalty panel.”; and

(B) strike “to the extent that they were accepted by the Librarian of Congress.”.

(17) In section 5, insert the following after subsection (g) and redesignate succeeding subsections accordingly:

(h) RATEMAKING FOR SATELLITE CARRIERS.—Section 119(c) of title 17, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by striking “Librarian of Congress” and inserting “Copyright Royalty Judges”; and

(B) in subparagraph (C), by striking “Register of Copyrights shall prescribe” and inserting “Copyright Royalty Judges shall prescribe as provided in section 803(b)(6); and

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking “arbitration proceedings” and inserting “proceedings”; and

(ii) by striking “arbitration proceeding” and inserting “proceedings”;

(B) in subparagraph (B)—

(i) by striking “copyright arbitration royalty panel appointed under chapter 8” and inserting “Copyright Royalty Judges”; and

(ii) by striking “panel shall base its decision” and inserting “Copyright Royalty Judges shall base their determination”; and

(C) in subparagraph (C)—

(i) in the heading, by striking “DECISION OF ARBITRATION PANEL OR ORDER OF LIBRARIAN” and inserting “DETERMINATION UNDER CHAPTER 8”; and

(ii) by striking clauses (i) and (ii) and inserting the following:

“(i) is made by the Copyright Royalty Judges pursuant to this paragraph and becomes final, or

“(ii) is made by the court on appeal under section 803(d)(3).”.

(18) In the first sentence of section 6(b)(1)—

(A) strike “date of enactment of this Act” and insert “effective date provided in subsection (a)”;

(B) strike “such date of enactment” and insert “such effective date”.

(19) Strike paragraph (2) of section 6(b) and insert the following:

(2) CERTAIN ROYALTY RATE PROCEEDINGS.—Notwithstanding paragraph (1), the amendments made by this Act shall not affect proceedings to determine royalty rates pursuant to section 119(c) of title 17, United States Code, that are commenced before January 31, 2006.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADJOURNMENT UNTIL 2:15 P.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:31 p.m., adjourned until Wednesday, November 17, 2004, at 2:15 p.m.

## NOMINATIONS

Executive nominations received by the Senate November 16, 2004:

### FARM CREDIT ADMINISTRATION

DALLAS TONSAGER, OF SOUTH DAKOTA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION, FOR A TERM EXPIRING MAY 21, 2010, VICE MICHAEL M. REYNA, TERM EXPIRED.

### COMMODITY FUTURES TRADING COMMISSION

MICHAEL V. DUNN, OF IOWA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 19, 2006, VICE JAMES E. NEWSOME, RESIGNED.

### CORPORATION FOR PUBLIC BROADCASTING

ERNEST J. WILSON III, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2010. (REAPPOINTMENT)

### FEDERAL MARITIME COMMISSION

HAROLD JENNINGS CREEL, JR., OF SOUTH CAROLINA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2009. (REAPPOINTMENT)

### FEDERAL COMMUNICATIONS COMMISSION

JONATHAN STEVEN ADELSTEIN, OF SOUTH DAKOTA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM EXPIRING JUNE 30, 2008. (REAPPOINTMENT)

### NUCLEAR REGULATORY COMMISSION

ALBERT HENRY KONETZNI, JR., OF NEW YORK, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR A TERM EXPIRING JUNE 30, 2009, VICE RICHARD A. MESERVE, RESIGNED.

### DEPARTMENT OF THE TREASURY

RAYMOND THOMAS WAGNER, JR., OF MISSOURI, TO BE A MEMBER OF THE INTERNAL REVENUE SERVICE OVERSIGHT BOARD FOR A TERM EXPIRING SEPTEMBER 14, 2009. (REAPPOINTMENT)

### BROADCASTING BOARD OF GOVERNORS

KENNETH Y. TOMLINSON, OF VIRGINIA, TO BE CHAIRMAN OF THE BROADCASTING BOARD OF GOVERNORS. (REAPPOINTMENT)

KENNETH Y. TOMLINSON, OF VIRGINIA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2007. (REAPPOINTMENT)

### UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

JAY T. SNYDER, OF NEW YORK, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2007. (REAPPOINTMENT)

### BROADCASTING BOARD OF GOVERNORS

D. JEFFREY HIRSCHBERG, OF WISCONSIN, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2007. (REAPPOINTMENT)

### POSTAL RATE COMMISSION

TONY HAMMOND, OF VIRGINIA, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR A TERM EXPIRING OCTOBER 14, 2010. (REAPPOINTMENT)

### UNITED STATES POSTAL SERVICE

LOUIS J. GIULIANO, OF NEW YORK, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2009, VICE ALBERT CASEY, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

CAROLYN L. GALLAGHER, OF TEXAS, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 8, 2005, VICE ERENSTA BALLARD, RESIGNED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

### HARRY S TRUMAN SCHOLARSHIP FOUNDATION

SHARON TUCKER, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2005, VICE E. GORDON GEE, TERM EXPIRED.

### BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

CHARLES P. RUCH, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING AUGUST 11, 2010, VICE NIRANJAN SHAMALBHAI SHAH, TERM EXPIRED.

EDWARD ALTON PARRISH, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING APRIL 17, 2008, VICE HANS MARK, RESIGNED.

LAURIE STENBERG NICHOLS, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING MARCH 3, 2010, VICE DONNA DEARMAN SMITH, TERM EXPIRED.

### CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

MIMI MAGER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING DECEMBER 27, 2007, VICE MARK D. GEARAN, TERM EXPIRED.

JACOB JOSEPH LEW, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2008, VICE ARTHUR J. NAFARSTEK, TERM EXPIRED.

### DEPARTMENT OF JUSTICE

ALBERTO R. GONZALES, OF TEXAS, TO BE ATTORNEY GENERAL, VICE JOHN ASHCROFT, RESIGNED.

PATRICIA CUSHWA, OF MARYLAND, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS, VICE JANIE L. JEFFERS.

### IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 271:

#### To be lieutenant commander

JOEL A. AMUNDSON, 0000

EUGENIO S. ANZANO, 0000

KIMBERLY J. VSEC, 0000

KEVIN L. BARNETTE, 0000

JOHN F. BARRESI, 0000

AMY M. BEACH, 0000

PETER L. BEACH, 0000

JAMES G. BELLARE, 0000

BENJAMIN D. BERG, 0000

JAMES R. BETZ, 0000

DANIEL P. BISHOP, 0000

KENNETH A. BISHOP, 0000

JOHN R. BITTERMAN, 0000

LUCINDA J. BOOKHAMMER, 0000

GEORGE A. BORLASE, 0000

RICHARD G. BOSTON, 0000

JOHN M. BRANCH, 0000

WILLIAM J. BROOME, 0000

BRUCE C. BROWN, 0000

ROBERT S. BROWN, 0000

SUZANNE M. BROWN, 0000

SANDRA E. BULLOCK, 0000

PHILLIP B. BURGARD, 0000

JEFFREY S. BURKE, 0000

JOHN M. BURNS, 0000

WILLIAM R. BUTLER, 0000

MARIE B. BYRD, 0000